IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 21ST DECEMBER 2006 / 30TH AGRAHAYANA 1928

RCRev..No. 134 of 2006(I)

RCA.170/2004 of D.C. & SESSIONS COURT,KOZHIKODE
RCC.8/2003 of MUNSIFF COURT, QUILANDY

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(Against the common judgment dated 13-10-2005 in RCA 170/04 and Cross objection on the files of the Rent Control Appellate Authority, Kozhikode arising from order dated 28-7-04 in RCC 8/03 of the Rent Control Court, Koyilandi)

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REVISION PETITIONERS

1. P.V.RIYAS, S/O.O.P.UMMERKUTTY,UPHOLSTERY WORK ARYA, PANTHALAYANI AMSOM, DESOM, KOYILANDY TALUK, P.O.KOYILANDY, REP. BY POWER OF ATTORNEY HOLDER, P.V.SHAFEEQUE, S/O.O.P.UMMERKUTTY, PANTHALAYANI DESOM, KOYILANDY TALUK, P.O.KOYILANDY

2. K.P.HARIS, S/O.IBRAHIM, SHOP NO.KM 24/87, NEAR FISH LANDING CENTRE, PANTHALAYANI AMSOM, KOYILANDY DESOM, KOYILANDY BAZAR, KOYILANDY TALUK PO.

BY ADV. SRI.K.S.HARIHARAPUTHRAN
SRI.M.D.SASIKUMARAN
SRI.P.J.JOSEPH
SRI.GEORGE MATHEW
SRI.A.V.TELLES
SRI.VIJO JOSE

RESPONDENTS:

VALIYANDIVALAPPIL ABOOBACKER, S/O.KUTTIASSAN, BUSINESS, KARAVANGAD, AMSOM, DESOM, REP. BY POWER OF ATTORNEY HOLDER, FIROSE, S/O.ABOOBACKER, COOLIE, RESIDING AT MEETHAL, THURUTHIYIL, KURAVANGAD AMSOM DESOM, KOYILANDY TALUK.

BY ADV. SRI.AVM.SALAHUDIN

THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON 21/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.A.ABDUL GAFOOR & K.P.BALACHANDRAN, JJ.

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R.C.R.No.134 of 2006

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Dated this the 21st day of December 2006

ORDER

K.P.BALACHANDRAN, J.

This revision is at the instance of the tenant against whom order of eviction has been passed concurrently by the authorities below under Sections 11(2)(b) and 11(3) of Kerala Building (Lease and Rent Control) Act, 1965 hereinafter referred to as 'the Act'. When the matter came up for final hearing, learned counsel for the petitioner after making all attempts to persuade us to interfere with the concurrent findings of the authorities below assailing findings under Section 11(2)(b) and 11(3) of the Act, probably on being convinced that we are not moved by the submissions so made, submitted that the petitioner may atleast be granted some time to surrender vacant possession of the scheduled building till 30th of April 2007, without considering the case on merits.

2. We heard the submission of the counsel for the land lord as well. We are of the view that time till 30th April 2007 can be granted to the petitioner to surrender vacant possession of the scheduled building to the respondent/landlord.

In the result, we dismiss this RCR. At the same time, we grant the petitioner time till 30-4-2007 to surrender vacant possession of the scheduled building to the respondent/land lord. The petitioner shall clear off the entire arrears of rent within three weeks and file memo reporting the said payment before the Execution Court positively within one month from today. Damages for use of occupation shall also be paid by the petitioner at the same rate at which rents were paid, till he actually surrenders vacant possession of the scheduled building to the landlord, on or before 10th of every calender month. He shall not induct any strangers into the scheduled building. An affidavit shall be filed before the Execution Court undertaking to comply with all the above conditions positively within one month from today. In the event of failure to comply with any of the above directions the petitioner shall not be entitled to continue in occupation of the scheduled building till 30-4-2007 and shall be liable to be evicted forthwith.

K.A.ABDUL GAFOOR, JUDGE

K.P.BALACHANDRAN, JUDGE

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